

REMARKS

Claims 1-8, 11-39, 42-70, 73-101 and 104-124 are pending in the application.

Claims 1-8, 11-39, 42-70, 73-101 and 104-124 have been rejected.

Claims 1, 32, 63, 94 have been amended.

Formal Matters

Appreciation is expressed for the telephonic interview conducted on April 6, 2010 between Examiner Examiner Refai and Shawn Doman. During the interview, the Smith reference was discussed with reference to independent claim 1. The undersigned believes this paper is in harmony with the positions expressed during the interview.

Rejection of Claims under 35 U.S.C. §112

Claims 1-8, 11-39, 42-70, 73-101 and 104-124 stand rejected under 35 U.S.C. § 112, first paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The Office Action states that amendments made in the previous response (“detecting that acknowledged data is being removed from a transmit buffer for said first TCP connection, wherein removal of said acknowledged data frees space in said transmit buffer” and “in response to said detecting, transferring data from a receive buffer for said second TCP connection to said transmit buffer,”) appear to lack proper support in Applicants’ Specification . Office Action, p. 3. Applicants respectfully traverse this rejection. As noted in the previous response, support for these amendments is found, at least, on p. 11 of the specification. Specifically, p. 11 discloses that since a proxy is monitoring for acknowledged data getting dropped from client connection transmit buffers, the proxy can push data from a server connection receive buffer to the transmit buffer when the transmit buffer has more room. Thus, Applicants respectfully submit that the amendments are supported and respectfully request withdrawal of this rejection.

Claims 1-8, 11-39, 42-70, 73-101 and 104-124 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite regarding the “third network element”

limitations. Applicants are grateful to the Examiner for pointing out the typographical error regarding a third network element. Applicants have amended the claims to correct this error. Therefore, Applicants respectfully request withdrawal of this rejection.

The Office Action states that the claims are indefinite because it is purportedly unclear where the transmit and receive buffers are located. Office Action, p. 3. In order to expedite prosecution, Applicants have amended claim 1 to recite that the transmit and receive buffers are included in the first network element. Therefore, Applicants respectfully request withdrawal of this rejection.

The Office Action states that the term “acknowledged data” lacks antecedent basis because “no data was previously acknowledged in the claim.” In order to expedite prosecution, Applicants have amended claim 1 to recite that detecting that acknowledged data is being removed from a transmit buffer comprises detecting an acknowledgement by the second network element. The amendments clarify that the data is acknowledged by a second network element. Therefore, Applicants respectfully request withdrawal of this rejection.

The Office Action states that “no data can transfer on a terminated connection, and states that this renders the claims unclear, and so indefinite. Office Action, p. 3. In order to expedite prosecution, Applicants have amended claim 1 to recite establishing a connection. Therefore, Applicants respectfully request withdrawal of this rejection.

Rejection of Claims under 35 U.S.C. § 103(a)

Claims 1-8, 15-39, 46-70, 77-101 and 108-124 stand rejected under 35 U.S.C. § 103(a) as purportedly being unpatentable over U.S. Patent No. 6,389,462 issued to Cohen, et al., (“Cohen”) in view of U.S. Patent No. 6,308,238 issued to Smith, et al., (“Smith”). Applicants respectfully traverse this rejection.

Applicants respectfully submit that the cited portions of Cohen and Smith fail to disclose each element of claim 1, which has been amended to recite, in relevant part, “said detecting comprises detecting an acknowledgement sent via said first TCP connection.” As an initial matter, support for this amendment is found, at least, at the last

paragraph of p. 11 of Applicants' Specification (e.g., "By monitoring the client's connection, the proxy does not wait for the client to request more data....When the client acknowledges the data...Since the proxy is monitoring for this..."). No new matter is added. The amendment clarifies that data is pushed from a receive buffer to a transmit buffer in response to detecting acknowledged data being dropped from the transmit buffer.

Applicants respectfully submit that these features are not disclosed by the cited references. The Office Action admits that Cohen fails to disclose these features and cites Smith as purportedly supplying this missing disclosure. Office Action, pp. 4-5. The Office Action states that Smith discloses determining whether a buffer is full and, if not, transferring data into the buffer. Office Action, p. 5. Applicants respectfully submit that whether or not Smith actually discloses such teachings is irrelevant because Smith's determining whether a buffer is full is not comparable to the claimed act of detecting that acknowledged data is being removed, where the detecting comprises detecting an acknowledgement sent via a first TCP connection.

The cited portions of Smith disclose comparing a length of valid data with a known size of a buffer in order to determine if the buffer is full after first retrieving buffer status information. Smith 13:29-56. Smith also explicitly discloses that data is sent to a buffer only after determining that there is an incoming data request from a client. Smith 11:38-40. Thus, Smith requires the client to send a request to receive additional data. Smith discloses that data is transferred to a buffer in response to this request. *Id.* This is in direct contrast to the claimed method in which data is pushed to a buffer in response to detecting that acknowledged data is dropped from the buffer.

Applicants respectfully submit that it is unsurprising that Smith fails to disclose the claimed act of transferring data from a receive buffer to a transmit buffer in response to detecting acknowledged data is removed from the transmit buffer since Smith already discloses a mechanism to determine when to transfer data to a buffer. That is, Smith discloses transferring data to a buffer in response to a client requesting more data. At least because the claimed acts of detecting an acknowledgement and the removal of acknowledged data are not comparable to Smith's receiving a request for additional data,

Applicants respectfully submit that the cited portions of Smith fail to disclose each element of claim 1.

For at least the foregoing reasons, Applicants respectfully request the Examiner's reconsideration and withdrawal of the rejections to claim 1, as well as claims 32, 63, and 94 which contain substantially similar features, and all claims that depend therefrom, and an indication of the allowability of same.

Claims 11, 13, 42, 44, 73, 75, 104, and 106 stand rejected under 35 U.S.C. § 103(a) as purportedly being unpatentable over Cohen, in view of Smith, and in further view of U.S. Patent No. 5,920,732 issued to Riddle ("Riddle"). Claims 12, 14, 43, 45, 74, 76, 105 and 107 stand rejected under 35 U.S.C. § 103(a) as purportedly being unpatentable over Cohen, in view of Smith, and U.S. Patent No. 6,735,634 issued to Geagan, III ("Geagan"), and in further view of U.S. Patent No. 5,687,392 issued to Radko ("Radko"). Applicants respectfully traverse this rejection. For at least the foregoing reasons, Applicants respectfully request the Examiner's reconsideration and withdrawal of the rejections to these claims and an indication of the allowability of same.

CONCLUSION

In view of the amendments and remarks set forth herein, the application and the claims therein are believed to be in condition for allowance without any further examination and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is invited to telephone the undersigned at (512) 439-5092.

If any extensions of time under 37 C.F.R. § 1.136(a) are required in order for this submission to be considered timely, Applicants hereby petition for such extensions. Applicants also hereby authorize that any fees due for such extensions or any other fee associated with this submission, as specified in 37 C.F.R. § 1.16 or § 1.17, be charged to Deposit Account 502306.

Respectfully submitted,

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